

# **APPENDIX A**

## **Current Protective Zoning By-Law**

### **Section 1: General Provisions**

### **Section 2: Basic Requirements for All Districts**

### **Section 3: District Regulations**

### **Section 5: Off-Street Parking and Loading**

#### **1. GENERAL PROVISIONS**

##### **1.1 Authority and Title**

This Bylaw is adopted in accordance with and pursuant to the provisions of Massachusetts General Laws, Chapter 40A, as amended. This Bylaw shall be known and may be cited as the Zoning Bylaw of the Town of Shirley, Massachusetts.

##### **1.2 Purposes**

The purposes of this Bylaw include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provisions of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan adopted by the Planning Board, the Shirley Open Space and Recreation Plan and the Comprehensive Plan of the Montachusett Regional Planning Commission; and to preserve and increase amenities by the promulgation of regulations to fulfill these purposes under the provisions of Massachusetts General Laws, Chapter 40A.

In accordance with these purposes, the use, erection, establishment, movement, repair, alteration, enlargement, height, appearance, location and occupancy of buildings and structures, and the uses and occupancy of premises in the Town of Shirley are hereby regulated and restricted as hereinafter provided.

##### **1.3 Planning Board Associate Member**

Per Massachusetts General Laws, Chapter 40A, Section 9, the Shirley Planning Board, as it is a special permit granting board, shall have one associate member who shall sit, when necessary, on the Board for the purpose of acting on Special Permit applications. This position will be filled by the general election at the Annual Town Meeting and term shall be for two (2) years.

#### **2. USE DISTRICTS AND REGULATIONS**

##### **2.1 Establishment of Districts**

The Town of Shirley is hereby divided into the following classes of districts to be known as:

R-R	Residential Rural	C-1	Commercial Village
R-1	Residential	C-2	Commercial Highway
R-2	Residential	I	Industrial
R-3	Residential	MU	Mixed Use Overlay District

##### **2.2 Overlay Districts**

The following overlay districts are hereby established:

FP	Flood Plain
MU	Mixed Use
Z1	Water Supply & Wellhead Protection
Z2	Water Supply & Wellhead Protection

##### **2.3 Zoning Map**

The location and boundaries of the zoning districts are hereby established as shown on a map entitled, "Zoning Map of the Town of Shirley" ("the Map"), dated May 15, 1985, as amended, which accompanies and is hereby declared to be part of this Bylaw. All explanatory legend and memoranda thereon or attached thereto are hereby declared to be a part of this Bylaw. Any change in the location of boundaries of a zoning district hereafter made through the amendments of this Bylaw shall be indicated by the alteration of such Map, and the Map, thus altered, is declared to be a part of the Bylaw thus amended. The Zoning Map shall be drawn at a large scale with ink on stable material and shall be located in the office of the Planning Board. Photographic reductions of this large-scale Zoning Map may serve as copies of the Zoning Map.

Copies of the Zoning Map and attached memoranda are filed with the Town Clerk.

## **2.4 Boundaries of Districts**

- 2.4.1 Where the boundary lines are shown upon the Map within the side lines of public and private ways, railroads or water courses, the center lines of such ways shall be the boundary lines.
- 2.4.2 Where the boundary lines are shown upon the Map, approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- 2.4.3 Boundary lines located outside of such lines of public and private ways and shown approximately parallel thereto shall be regarded as parallel to such side lines and dimensions shown in figures placed upon the Map between such boundary lines and side lines of public and private ways are the distances in feet of such boundary lines from such side lines, such distances being measured at right angles to such side lines unless otherwise indicated.
- 2.4.4 In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said Map, by the use of identifications as shown on the Map, or by the scale of the Map.
- 2.4.5 Where a district boundary line (other than a boundary line for an overlay district) divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot shall extend no more than thirty (30) ft. into the more restricted portion, provided the lot has frontage in the less restricted district.
- 2.4.6 Where boundary lines are contour lines they are of indicated elevation above the datum mean sea level of the U.S. Geological Survey.
- 2.4.7 Any change of the Zoning Map shall constitute an amendment of this Bylaw and the procedure for making such a change shall conform to the requirements for amending this Bylaw.

## **2.5 Basic Use Regulations**

No new structures shall be erected, constructed, established, altered, repaired, enlarged or moved, and no land shall be put to new use or shall be occupied except in conformity with the requirements, character and conditions laid down for each of the several districts established by this Bylaw. Any use not specifically listed herein or otherwise permitted in a district shall, to the extent permitted by law, be prohibited, except as noted in the following paragraph.

In accordance with MGL, Ch. 40A, and notwithstanding any provisions to the contrary, this Bylaw shall not prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations, concerning the bulk and height of structures and determining yard sizes, lot area, set-backs, open space, parking and building coverage requirements, in accordance with the provisions of this Bylaw; and this Bylaw shall not prohibit, unreasonably regulate or require a special permit for the use of land for the primary purpose of agriculture, horticulture or floriculture and shall not prohibit or unreasonably regulate the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture except that all such activities may be limited to parcels of more than five (5) acres which are not zoned for agriculture, horticulture or floriculture, nor shall provisions of this Bylaw exempt land or structures from floodplain or wetlands regulations established pursuant to general law.

## **2.6 Schedule of Use Regulations**

The restrictions and controls intended to regulate development in each district are set forth in the schedule below which is supplemented by other sections of this Bylaw.

The following notations apply to the Schedule of Use Regulations:

- Y (Yes) - Use permitted
- S (Special Permit) - Use allowed under Special Permit by Planning Board (SP) or Board of Appeals (SA) or Board of Selectmen (SS)
- N (No) - Use prohibited

Uses permitted and uses allowed under a Special Permit shall be in conformity with all the density and dimensional regulations and any other pertinent requirements of this Bylaw.

Where the Board of Selectmen acts as a Special Permit granting authority, the procedures and criteria of Section 9.2.3 shall be applicable.

### **SCHEDULE OF USE REGULATIONS**

<b>USE</b>	<b>R-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>	<b>MU</b>
<b>Residential:</b>								
Detached single-family dwelling	Y	Y	Y	Y	Y	SA	N	N
Detached single-family dwelling on a "Hammerhead" lot	SP	SP	SP	SP	N	N	N	N
Accessory dwelling unit in an existing detached single-family dwelling (subject to Section 4.5)	Y	Y	Y	SA	SA	SA	N	N
In-law Apartment (subject to Section 4.10)	Y	Y	Y	Y	N	N	N	N
Cluster Residential housing	SP	SP	SP	SP	N	N	N	N
Conversion of a single-family dwelling existing at the time of the original adoption of this Bylaw into a multi-family dwelling	SA	SA	SA	SA	N	N	N	N
Two-family detached dwelling provided its external appearance is not significantly different from a single-family dwelling	Y	Y	Y	Y	SA	N	N	N
Multi-family housing (maximum six (6) units per building)	SP	SP	SP	SP	SP	N	N	N
Customary home occupations such as shop, dressmaking, millinery, handicraft, baking, cooking, woodworking, or professional office when situated in the place of residence of such person, or in an accessory building provided that not more than 25% of the combined floor area of the residence and the accessory building is devoted to such occupation on the premises and that there is no external evidence of such use except for an announcement sign (subject to Sections 4.6, 4.7, or 4.8)	Y	Y	Y	Y	Y	Y	N	N
Rooming house or boarding house for not over four (4) lodgers	SA	Y	Y	Y	Y	Y	N	N
Mobile home park	N	N	N	N	N	N	N	N
Accessory uses on the same lot, if entirely auxiliary to permitted uses; provided that no building or enclosure for the keeping of livestock shall be nearer than 25 feet to any lot line (subject to Section 3.2.12)	Y	Y	Y	Y	Y	Y	Y	N
<b>Community Facilities:</b>								
Church, rectory, parish house, convent or other religious use	Y	Y	Y	Y	Y	Y	N	SP
Non-profit educational use either public, private or religious	Y	Y	Y	Y	Y	Y	N	N
Conservation areas, reservations or wildlife preserve	Y	Y	Y	Y	Y	Y	Y	N
Cemetery	SA	SA	SA	SA	N	N	N	N
Nursery school, day care center, day camp or other educational use	SA	SA	SA	SA	Y	Y	SA	N
Sanitary landfill and other solid waste facilities	N	N	N	N	N	N	SP	N
Use of land for a public utility	SA	SA	SA	SA	Y	Y	Y	SP
Golf courses (not including miniature golf), ski grounds, camping areas, or swimming facilities, including the incidental sale of refreshments, if primarily for the convenience of the patrons, and of equipment customarily related to their use	SA	SA	SA	SA	N	N	N	N
Hospitals, medical institutions, public or semi-public institutions of an historic or philanthropic or charitable character	SA	SA	SA	SA	SA	SA	SA	N
<b>Community Facilities cont.:</b>								
Governmental Administration Buildings; Fire or Police Station and any other buildings or structures used in connection with municipal and governmental affairs	SP	SP	Y	Y	Y	Y	Y	SP
<b>Agriculture:</b>								
Raising or keeping farm animals, livestock, or poultry for use by residents of the premises, subject to Board of Health regulations and provided that no noise or odor is observable at the lot lines	Y	Y	Y	SA	N	Y	Y	N
Commercial raising or keeping of horses, goats, sheep, cattle, and not over 15 pigs, or poultry. No building or enclosure for the keeping of animals shall be nearer than 25 feet to any lot line.	Y	Y	Y	Y	N	Y	Y	N
The maintenance of dog kennels and riding stables	SA	SA	SA	N	N	N	N	N
Gardens; growing and storing of fruits,	Y	Y	Y	Y	Y	Y	Y	N

USE	R-R	R-1	R-2	R-3	C-1	C-2	I	MU
berries, vegetables, hay, fodder and ensilage; orchards, wood lots and forestry; and nursery and similar activities in the field of agriculture								
Commercial greenhouse	SA	SA	SA	SA	SA	Y	Y	N
Veterinary hospital	N	N	N	SA	SA	Y	Y	N
Forestry	Y	Y	Y	Y	Y	Y	Y	N
Stand for commercial retail sale of agriculture or farm produce raised primarily on the premises, or articles of home manufacture from such produce, and ancillary products to the business, set back at least 20 feet. From the street line and provided that space for customers' cars is available off the right-of-way of the street and is so arranged as not to permit backing of automobiles onto any public or traveled way	SA	SA	SA	SA	Y	Y	Y	N
<b>Retail and Service:</b>								
Stores for the sale of goods at retail	N	N	N	N	Y	Y	SA	SP
Restaurants, taverns or cafes serving food or beverages to be consumed within the premises	N	N	N	N	Y	Y	N	SP
Fast food	N	N	N	N	SA	SA	SA	N
Drive-through food sale	N	N	N	N	SA	SA	SA	N
Establishments selling new and/or used operable automobiles, trucks, accessories, farm equipment, aircraft, motorcycles, and camping trailers	N	N	N	N	Y	Y	SA	N
Hotels, motels	N	N	N	N	SA	SA	N	N
Tourist homes and bed and breakfasts	SA	SA	SA	SA	SA	SA	N	N
Trailer camp	N	N	N	N	N	N	N	N
Funeral home or mortuary establishment	N	N	N	N	Y	Y	SA	SP
Convalescent and nursing home	SA	SA	SA	SA	SA	SA	N	N
Medical and dental offices not attached to the doctor's or dentist's residence	N	N	N	N	Y	Y	SA	SP
Dry cleaning outlet	N	N	N	N	Y	Y	N	SP
Membership club or non-profit organization	SA	SA	SA	SA	Y	Y	SA	SP
Gasoline service stations and automobile repair shops (not including junkyards) providing that there shall be no storage of automobiles on the premises other than those in the process of awaiting repair or awaiting delivery or pickup after repair	N	N	N	N	Y	Y	Y	N
<b>Retail and Service cont.:</b>								
Automotive graveyard or other junkyard	N	N	N	N	N	N	N	N
Miscellaneous trade and repair service and shops as principal use	N	N	N	N	Y	Y	SA	SP
Indoor motion picture and amusement establishment	N	N	N	N	Y	Y	N	SP
Helicopter landing area and commercial communication towers for radio and television	N	N	N	N	N	Y	Y	N
Shops for custom work or the making of articles to be sold at retail on the premises as a principal use	N	N	N	N	Y	Y	Y	SP
Commercial parking lot	N	N	N	N	Y	Y	Y	SP
Commercial sports and recreation	N	N	N	N	Y	Y	N	N
Miscellaneous business offices including insurance and real estate as principal use	N	N	N	N	Y	Y	Y	SP
Personal service establishments, including beauty salon, barbershop, tailor, and similar uses	N	N	N	N	Y	Y	N	SP
Banking institutions	N	N	N	N	Y	Y	N	SP
Neighborhood retail	N	N	N	N	N	N	N	N
Temporary (less than 30 days) amusement enterprises not including permanent structures	N	N	N	N	SA	SA	SA	N
<b>Industrial and wholesale:</b>								
Research, experimental and testing lab	N	N	N	N	N	SA	Y	N
Light manufacturing and manufacturing which is incidental to research, experimental and testing laboratories, whether enclosed or otherwise	N	N	N	N	N	SA	Y	N
Enclosed manufacturing	N	N	N	N	N	N	Y	N
Assembly, fabrication, processing, printing, wholesaling and distribution, warehousing and interior storage	N	N	N	N	N	N	Y	N
Exterior storage, as an accessory use, exclusive of junk cars or other junk items, provided that the use is screened from view, by a fence or	N	N	N	N	N	N	Y	N

USE	R-R	R-1	R-2	R-3	C-1	C-2	I	MU
appropriate landscaping, from abutting streets or properties								
Beverage bottling or food packaging plant but not including meat and fish processing	N	N	N	N	N	N	Y	N
Plant for dry cleaning, cold storage or freezing	N	N	N	N	SA	SA	Y	N
Above ground storage of gas and petroleum products	N	N	N	N	N	SA	Y	N

## 2.7 Prohibited Uses

Any use not specifically or generically listed herein or otherwise permitted in a district shall be deemed as prohibited. Any legal use of land or building is permitted in accordance with the requirements of this Bylaw except those uses which are dangerous or detrimental to a neighborhood because of fire or explosive hazard, offensive noise, smoke, vibration, harmful radioactivity, electrical interference, dust, odor, fumes, heat, glare, unsightliness or other objectionable characteristics.

## 2.8 Non Conforming Uses

2.8.1 Any use or structure lawfully existing at the time of the adoption of the Shirley Zoning Bylaw or any amendment thereto and any use or structure lawfully begun, or as to which a building or special permit has been issued, before the first publication of notice of the public hearing on this amendment to such Bylaw or any future amendment thereto may be continued or completed although such structure or use does not conform to the provisions hereof or of such amendment, provided that:

- Construction or operations pursuant to such building or special permit shall conform to the provisions of this Bylaw as amended unless the use or construction is commenced within a period of six (6) months after issuance of the permit and, in cases involving construction, unless such construction is completed as continuously and expeditiously as is reasonable;
- Any conversion of any non conforming use to a conforming use shall be subject to the requirements for such uses in the district in which the use is located and once changed shall not thereafter revert to the non conforming use;
- Wherever a non conforming use has been abandoned for a period of more than two (2) years except for agricultural, horticultural or floricultural where the period shall be for more than five (5) years, it shall not be reestablished and any future use shall conform to the Zoning Bylaw and any amendment thereto;
- No building or structure put to a non conforming use or non conforming structure which is destroyed or damaged by fire or other causes, or demolished to the extent, in any of such cases, of more than three-quarters (3/4) of its fair market value at the time of said damage or demolition as determined by the Building Inspector may be rebuilt for the purpose of reestablishing the non conforming use, unless the Board of Appeals shall make the finding set forth in Section 9.2.3 below with respect to such reconstruction or repair;
- Any reconstruction or repair of a partially destroyed, demolished or damaged structure which is non conforming, or which was put to a non conforming use must be commenced within one year of such damage or destruction and the reconstruction completed and the structure occupied within two (2) years of such damage or destruction.

2.8.2 A residence in a district where residences are permitted, but on a non conforming lot, may be reconstructed, altered or repaired without change in the lot size, subject to the provisions of Section 2.8.3.

2.8.3 A single or two-family residential structure may be the subject of alteration, reconstruction, extension or structural change provided that such alteration, reconstruction, extension or structural change does not increase the non conforming nature of such structure.

2.8.4 Any other non conforming structure or use the change or alteration of which is not otherwise permitted as a matter of right by the provisions hereof, may be extended, altered, reconstructed or repaired, provided any such extension shall not exceed twenty-five percent (25%) of its area on said lot as of June 16, 1988, and that in each case the Board of Appeals, in accordance with the procedures of Section 9.2.3 hereof, shall find that such extension, alteration, reconstruction or repair is not substantially more detrimental to the neighborhood than the existing non conforming structure or use.

Notwithstanding anything contained herein to the contrary, such expansion of a structure or use permitted hereunder must be physically located within the perimeter of the lot as said perimeter existed and upon which the non conforming structure or use was situated on the date the structure or use originally became non conforming.

## 2.9 Rate of Development

2.9.1 The purpose of this Section, "Rate of Development", is to ensure that growth occurs in an orderly and planned manner; to phase growth so that it will not unduly strain the community's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services; to maintain the community at a quality of life which citizens

expect; to provide the Town boards and its agencies information, time, and capacity to incorporate such growth into or as per the Master Plan for the community; and to preserve and enhance existing community character and the value property.

#### 2.9.2 General

Beginning on September 11, 2000, building permits, including foundation permits, for not more than thirty (3) dwelling units shall be applied for or issued in each of the five (5) calendar years following said date, for the construction of new residential dwelling units, per approved ANR and/or standard or cluster subdivision. Further, no one person or entity nor their successors in interest, nor any entity in which they hold a legal or beneficial ownership shall be issued more than five (5) of the total number of permits available in any one year, with the exception of the exemptions as described in this Bylaw.

“Dwelling unit” shall mean any portion of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities. Within the provisions of this Section, an “Accessory Apartment”, as defined in Section 11.1 of the Zoning Bylaws, shall not constitute a dwelling unit.

#### 2.9.3 Procedures

Any building permits issued shall act on each permit with the following procedures:

- a. The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant within three (3) business days and shall require new submittal.
- b. The Building Inspector shall accept applications and issue permits one (1) year at a time.
- c. The Building Inspector shall mark each application with the time and date of submittal.
- d. Any issued permit shall conform to the time limits set by Section 8.2.3.
- e. Any building permits not issued in any calendar year (January 1 – December 31) shall not be available for issuance in any subsequent year.
- f. At the end of each calendar year in which this Bylaw is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth (10<sup>th</sup>) day of January of the succeeding year the the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with Section 2.9.2 above.

#### 2.9.4 Exemptions

The provisions of this Section shall not apply to, nor limit in any way, the granting of building permits or occupancy permits required for enlargements, restoration, or reconstruction of existing dwellings existing on lots as of the date of passage of this Bylaw.

- a. Dwelling units for low and/or moderate income families or individuals, where all of the following conditions are met:
  1. Occupancy of the units is restricted to households qualifying under the Local Initiative Program as administered under the Massachusetts Department of Housing and Community Development.
  2. The affordable units are subject to a property executed and recorded deed restriction running with the land which shall limit each succeeding resale price to an increase of ten percent (10%), plus any increase in the consumer price index, plus cost of any improvements certified by the Building Inspector.
- b. Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through a property executed and recorded deed restriction running with the land. For purposes of this Section, “Senior” shall mean persons over the age of fifty-five (55).
- c. Development projects which voluntarily agree to a minimum of twenty-five percent (25%) permanent reduction in buildable lots permitted under an approved definitive subdivision plan. Such developer shall be eligible for a maximum of five (5) exempt building permits per year within the said subdivision.
- d. Person or entity is entitled to one (1) permit, on only one (1) lot, per year, on a lot the person or entity owns at the time of the acceptance of this Bylaw.
- e. Beginning on September 12, 2000 through December 31, 2000, no more than fifteen (15) building permits may be granted under the provisions of this Bylaw

#### 2.9.5 Time Limitation and Extension

This Bylaw shall expire on December 31, 2010, provided however, that this Bylaw may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to September 10, 2010.

## 2.9.6 Separability

The provisions of this Bylaw are hereby declared separable and if any provision shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this Bylaw.

### 3. DIMENSIONAL CONTROLS

#### 3.1 Schedule of Dimensional Controls

No principal or accessory building or structure in any district shall be located, constructed, changed, enlarged or permitted and no use of premises or land in any district shall be permitted which does not conform to the density and dimensional regulations as set forth in the following Schedule of Dimensional Controls covering lot sizes, yard dimensions and building height.

#### SCHEDULE OF DIMENSIONAL CONTROLS

<b>Dimensional Requirements</b>	<b>R-R (1)/(3)/(5)*</b>	<b>R-1 (1)/(3)/(5)*</b>	<b>R-2 (1)/(3)/(5)*</b>	<b>R-3 (1)/(3)/(5)*</b>	<b>C-1 (5)*</b>	<b>C-2</b>	<b>I</b>	<b>MU</b>
Min. Lot Size Single Family	80,000sf	40,000sf	30,000sf	15,000sf	15,000sf	15,000sf	---	15,000sf
Min. Lot Size Two Family	100,000sf	60,000sf	45,000sf	19,000sf	19,000sf (4)*	-	---	19,000sf
Min. Lot Size (Other Uses)	80,000sf	40,000sf	30,000sf	15,000sf	10,000sf	20,000sf	60,000sf	10,000sf
Min. Frontage	225ft	175ft	150ft	100ft	60ft	100ft	100ft	60ft
Min. Width At Building	225ft	175ft	150ft	100ft	60ft	100ft	100ft	60ft
Minimum Front Yard Depth	50ft	50ft	35ft	30ft	5ft	30ft	30ft	5ft
Minimum Side Yard Width	50ft	23ft	20ft	20ft	(2)*	30ft	50ft (2)*	(2)*
Min. Opposite Side Yard Width	50ft	17ft	15ft	15ft	---	15ft	15ft	15ft
Minimum Rear Yard Depth	50ft	50ft	40ft	30ft	15ft	50ft	50ft	---
Max. Lot Coverage by Building	25%	25%	25%	25%	75%	25%	25%	75%
Maximum Height	35ft	35ft	35ft	35ft	45ft	45ft	45ft	45ft
Max. Number of Stories	2 ½	2 ½	2 ½	2 ½	3	3	3	3

- (1)\* These dimensional controls may be waived in accordance with the provisions of Section 4.2, Cluster Residential Housing, upon the issuance of a special permit.
- (2)\* Minimum yard adjacent to residential district is 50 ft.
- (3)\* Hammerhead Lots see Section 4.3.
- (4)\* Special Permit, Board of Appeals.
- (5)\* See special regulations for Multi-Family Housing under Section 4.1.

#### 3.2 Special Dimensional Provisions

##### 3.2.1 Height Measurement

Height shall be measured as the vertical distance from the average ground elevation around the exterior walls of the structure to the highest point of the top story in the case of a flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof provided that the ridge of a pitched roof shall not be higher than 130% of the stipulated height for the district.

##### 3.2.2 Height Limitations

In determining the height of a building, any floor level shall be counted as a story if it is to be used in part for sleeping rooms, or if it is higher than three (3) ft. below the average ground level around the exterior walls of the structure.

Limitations of height shall not apply to chimneys, ventilators, skylights, spires, tanks, antennas, solar panels, and other features of such building usually carried above roofs, provided that in a residential district such features are in no way used for living purposes.

### 3.2.3 Lot Area Computation (*rev. 3/21/05 STM*)

In computing the area of any lot in any district, no part of a street or public way and no part of any water body or river bordering the lot shall be included.

At least sixty percent (60%) of the lot area required for minimum lot size zoning compliance, or ten thousand (10,000) square feet, whichever is greater, shall be land exclusive of any resource areas as defined by the Wetland Protection Act, M.G.L. Chapter 131, Section 40, and its corresponding regulations, 310 CMR 10.00, as of the adoption of this requirement. At least ten thousand (10,000) square feet of this "land exclusive of any resource areas" shall be contiguous.

### 3.2.4 Frontage - Access

A building lot in any district shall have frontage on and rights of access to one or more of the following for the distance required under Dimensional Controls:

- a. A way legally accepted by Town Meeting vote, or
- b. A way established by county, state, or federal authority, or
- c. A way established by a subdivision plan approved in accordance with the Subdivision Control Law, or
- d. Any other way or portion of a way in existence when the Subdivision Control Law became effective which, because of unusual conditions such as limitations upon the extent or type of land use to be served, the Planning Board, following consultation with the Highway Surveyor, Police Chief, Fire Chief and Board of Selectman, has determined to be sufficient for the needs for access and utilities to serve potential needs of land abutting on or served thereby.

The Planning Board shall also make such determinations with respect to the ways described in a, b, c, herein above.

Any determination made by the Building Inspector or Planning Board under this Section may be appealed to the Board of Appeals by any party having standing as provided in Section 8 of Chapter 40A, MGL.

The Town Clerk shall maintain a list of ways and portions thereto which have been determined to qualify to provide frontage under the provisions of this Section. The Planning Board may specify that its determination of adequacy applies only to given premises and not generally to all properties served by that way in cases where the limitations or other conditions justifying access adequacy for those premises are not generally true for other properties served by that way.

### 3.2.5 Frontage - Measurement

Frontage shall be measured along a straight line connecting points of intersection of the side lot lines with the street line on which the lot is located, and with not less than the required distance between said lot lines

at all points from the street line to the dwelling or main non-residential structure, except as hereafter provided in Section 4.3.1 for hammerhead lots.

### 3.2.6 Frontage - Dead End Streets

A lot on a turning circle of a dead end street may have a frontage of not less than eighty (80) ft. provided that the shortest distance between side lot lines shall be at least 120 ft. at every point more than thirty-five (35) ft. from the street line to the dwelling or main non-residential structure.

### 3.2.7 Frontage/Setback - Two Streets/Corner Lot

A lot having frontage on two (2) streets which do not intersect shall have two (2) front yards, each of which shall comply with the minimum front yard setback requirements of this Bylaw, but need to meet the minimum frontage requirement only with respect to one of the streets. A corner lot having frontage at the intersection of two (2) streets must have the minimum frontage on at least one of the streets and shall be deemed to have two (2) front yards, each of which shall comply with the minimum front yard setback requirements of this Bylaw; one of the remaining yards shall be a rear yard.

### 3.2.8 Minimum Lot Width



In any district, the minimum width of the lot at the building shall be measured as the shortest distance between side lot lines taken through each dwelling or main non-residential structure on said lot.

3.2.9 Irregular Lots - Side Lot Lines

In the event of an irregularly shaped lot and a question as to the identification of the appropriate side lot lines for measurements, the matter shall be decided by the Building Inspector with the advice of the Planning Board.

3.2.10 Front Yard Measurements

Front yards shall be measured from the street line to the nearest point of the front wall of any dwelling or any structure, provided that nothing shall prevent the projection of uncovered steps, cornices, window sills and other ornamental features, nor the construction of walls or fences which do not interfere with vision at the intersection of two (2) or more streets.

3.2.11 Building Setback - Modifications

Where existing buildings on adjacent lots are set back less than the minimum required in the district in which they are located, a new building may be located at the average setback of the adjacent existing buildings. A vacant lot is counted as though occupied by a building set back at the minimum setback line in the district in which it is located.

3.2.12 Accessory Buildings

Accessory buildings shall only be allowed in side or rear yards and shall conform to the minimum setback requirements for principal buildings in the district in which they are located. Accessory buildings may be permitted in front yards, subject to minimum setback requirements, upon issuance of a Special Permit by the Zoning Board of Appeals. Subject to issuance of a building permit however, one (1) shed, one hundred twenty (120) square feet or smaller and a maximum height of fifteen (15) feet above mean ground level, and/or one (1) above-ground swimming pool, or any part or accessory thereof, shall be located no closer than five (5) feet to a rear or side boundary line of the lot on which they are to be located in Districts R-1, R-2, R-3, C-2, and I. In District R-R, one (1) shed, one hundred twenty (120) square feet or smaller and a maximum height of fifteen (15) feet above mean ground level, and or one (1) above-ground swimming pool, or any part or accessory thereof, shall be located no closer than fifteen (15) feet to a rear or side boundary line of the lot on which they are to be located.

3.2.13 Corner Lot Road Visibility

Within an area formed by the side lines of intersecting street right of ways or pavement, walkways and driveways; and a line joining points on such lines twenty-five (25) feet distant from their point of intersection, or in the case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of three and one-half (3½) feet and a height of eight (8) feet above the plane through their curb grades.

3.2.14 Principal Buildings

There shall not be more than one principal building on a lot in residential zones except by Special Permit of the Planning Board.

## **5. PARKING AND LOADING**

### **5.1 General**

Parking and loading shall be provided in accordance with this Section for any building or use hereafter erected, enlarged or increased. Parking and loading space shall be maintained and shall not be encroached upon so long as said principal building or use remains, unless an equivalent number of such spaces is provided elsewhere in conformance with this Bylaw.

### **5.2 Obligation**

The requirement for parking space and loading space shall be a continuing obligation of the owner of the real estate on which any such structure or use is located as long as the structure or use is in existence and its use requiring vehicle parking facilities continues unless a change in use also changes the parking requirements. It shall be unlawful for an owner of any structure or use affected by this Section to discontinue, change or dispense with, or to cause the discontinuance of any vehicle parking or loading space. It shall be unlawful for any firm, corporation or person to occupy a structure without providing parking and loading spaces which meet with the requirements of and are in compliance with this Bylaw.

### **5.3 Collective Parking**

Nothing in this Section shall be construed to prevent collective provision of off-street parking facilities for two (2) or more structures or uses, provided that the total of such off-street parking spaces supplied collectively shall be not less than the sum of the requirements for the various uses computed separately.

#### 5.4 Location of Parking

The parking spaces required for all residential dwellings shall be located on the same lot as the dwelling and the parking spaces required for other uses shall be located on the same lot as the principal use or on a lot which is within 1,000 ft. of the principal use, such distance to be measured along street lines to the property.

In industrial zones, if there are special and unusual circumstances that make it impractical to provide all required parking within 1,000 ft. of the principal use, other provisions may be made for the location of parking provided it is a permitted use in the zone in which it is to be located and subject to Special Permit and Site Plan approval by the Planning Board.

When required parking spaces are provided on land other than the lot occupied by the principal use for which they are required, the land occupied by such spaces must be in the same possession as such principal use. The owner of such land must be bound by a covenant, recorded in the office of the Town Clerk binding such owner and his heirs and assigns to maintain the required number of parking spaces for the duration of the use served, unless the Town provides public parking for that particular business.

#### 5.5 Size and Number of Spaces

An off-street parking space as used herein shall be a space 9 ft. in width and 20 ft. in length. However, a parking space not less than 8 ft. by 18 ft. may be permitted in cases where the parking spaces are for the exclusive use of employees or the parking spaces are within a garage.

Off-street parking spaces shall be provided for all new uses or buildings hereafter constructed, reconstructed, or enlarged in accordance with the following schedule of requirements, unless otherwise provided for by the Town.

	<u>Use</u>	<u>Spaces Required</u>
a.	Dwellings	1-1/2 spaces per dwelling unit
b.	Housing for elderly	0.75 space per dwelling unit
c.	Places of assembly including but not limited to churches, auditoriums, theaters, and stadiums	1 space for each three (3) persons, capacity based on State Building Code
d.	Food and beverage establishments, clubs (public and private), fraternal organizations and lodges	1 space for each seventy-five (75) sq. ft. of gross floor area but not less than three (3) spaces per separate enterprise
e.	Hotels, motels, and boarding, lodging, and rooming houses	1 space for each rooming unit, plus required parking for facilities used for eating, drinking, assembly, and other such uses
f.	Automotive services including but not limited to gas stations, auto dealers, auto accessories, auto repair, overhaul shops, and car wash	1 space for each 500 sq. ft. of gross floor area; or three (3) spaces per bay, lift, or equivalent whichever is greater. An attendant operated or self-service car wash shall have at least five (5) waiting positions for each bay between the street line and such bay for cars approaching and at least two (2) waiting position for cars leaving said bays
g.	Open or outdoor businesses including but not limited to those which sell new and used: motor vehicles, trailers, mobile homes, building supplies, machinery, equipment, swimming pools, nursery and garden supplies	Adequate on-site customer parking which does not impede vehicular circulation or create other hazards or nuisances
h.	Appliance, carpet, furniture, electrical, heating, and plumbing retail sales	1 space for each 600 sq. ft. of gross floor area but not less than five (5) spaces per separate enterprise
i.	Other retail sales and service establishments	1 space for each 100 sq. ft. of net floor area but not less than five (5) spaces per separate enterprise*
j.	General business and professional offices and financial institutions	1 space for each 500 sq. ft. of net floor area; or two (2) spaces for each office or tenant, whichever is greater but not less than five (5) spaces per separate enterprise*  A drive-in bank window shall have at least five (5) waiting positions between the street line and said window for cars approaching and at least one waiting position for cars leaving said window
k.	General hospital, convalescent, nursing or rest home	1 space per two (2) patient beds

l.	Manufacturing and industrial establishments	1 space for each 500 sq.ft. of gross floor area
m.	Wholesale and distribution businesses, warehousing and storage businesses, truck terminals, and other enclosed non-industrial storage uses	1 space for each 1,000 sq. ft. of gross floor area or one space for each one and one half (1 1/2) employees on the maximum work shift, whichever is less

\*This section shall not apply in District C-1 if adequate municipal parking is provided by the Town.

## 5.6 Number of Loading Spaces

Every hospital, institution, hotel, retail store, office building, wholesale house, warehouse, or industrial building, or additions thereto to which or from which outside deliveries of materials or dispatches of materials are to be made by motor transport and totalling 8,000 sq. ft. or more in floor area hereafter constructed, reconstructed, or enlarged shall have on the lot one permanently maintained loading space and one additional loading space for each additional 16,000 sq. ft. of floor area or major portion thereof, excluding basements.

## 5.7 Design Requirements

The general layout and traffic circulation of parking and loading areas shall be designed so as to avoid unsafe conditions and traffic congestion in the streets upon which the area has access and to provide for the safety and adequacy of access for vehicles and pedestrians using the area.

- 5.7.1 Parking spaces and aisles shall be laid out in accordance with the "Design Standards for Off-Street Parking", as set forth hereinafter. All proposed curb cuts, access drives, and parking areas shall comply with all applicable requirements of the Massachusetts Department of Public Works.
- 5.7.2 Any enclosed loading space shall be located at least 30 ft. from any street line and any open loading space shall be so designed that trucks when loading or unloading will not project over any street line.
- 5.7.3 Individual parking and loading spaces, maneuvering areas, entrances and exits shall be suitably identified with lines and arrows, as deemed necessary by the Building Inspector.
- 5.7.4 No access drive, aisle or maneuvering area shall have a turning radius of less than twenty (20) ft.
- 5.7.5 Where vehicles will be located adjacent to the sidewalks, fences, walls, required buffer strips, trees, landscaping, or similar constructions, a suitable bumper or curb shall be provided in such a location that the vehicle cannot overhang or otherwise damage said obstruction.
- 5.7.6 Off-street parking and loading areas shall be surfaced with an asphaltic, bituminous, cement, or other properly bound pavement so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area. The use of so called porous paving is encouraged. The surface shall be delineated so that the parking space is apparent.
- 5.7.7 Any lighting used to illuminate any off-street parking or loading area shall be shielded and so arranged as to reflect the light away from adjoining premises and public rights-of-way.
- 5.7.8 Any portion of a parking area not used for parking space or circulation shall be appropriately landscaped and protected.
- 5.7.9 All parking areas with more than five (5) spaces and all loading areas shall be bordered on all sides that are contiguous to or across the street from the boundary of any property within any Residence Zone within a ten (10) ft. wide buffer strip on which shall be located and maintained appropriate fencing and/or landscaping of suitable type, density and height to effectively screen the parking area and the lights of motor vehicles from adjoining residential areas.
- 5.7.10 Access drives shall be arranged for the free flow of vehicles at all times; and all maneuvering spaces and aisles shall be so designed that all vehicles must exit from and enter into a public street by being driven in a forward direction.
- 5.7.11 All portions of all parking spaces and maneuvering aisles shall be set back a minimum of five (5) ft. from any wall of a building.
- 5.7.12 Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other parking space, except where the parking area is attended or limited to employees.

## 5.8 Access Drives

No driveway or access road, to or from any property, shall be so located at its juncture with a street as to create a danger or menace to the community or to the convenience or proper use of the adjoining property. No driveway shall provide access to a lot located in another Zoning district, if said lot is used for any use, principal or accessory, not permitted in the district in which such driveway is located. The driveway or access road to a lot shall be through its frontage.

- a. No driveway shall be located closer than twenty-five (25) ft. to any street intersection measured along the street lines. In any non-residential district, no two driveways on the same lot shall be located closer than twenty-five (25) ft. to each other at their closest limits.
- b. No lot having less than 200 ft. of street frontage shall have more than two (2) driveway entrances and/or exits on each street abutting the lot. Lots with more than 200 ft. of street frontages may have up to one driveway entrance and/or exit for each 100 ft. of additional street frontage.

## **5.9 Parking Restrictions**

Nothing herein shall be construed to prohibit the owner of a parking or storage area from restricting the use thereof to his customers, employees, or other invitees, nor from charging a reasonable fee for the use thereof.